

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

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THE BANK OF NEW YORK MELLON,
formerly known as the Bank of New York
on behalf of CIT Mortgage Loan Trust 2007-1,

Plaintiff,

v.

JOHN A. GLAVIN, GABRIELLE GLAVIN,
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.,
UNIFUND CCR PARTNERS, CITIBANK (SOUTH DAKOTA) N.A.
and UNITED STATES OF AMERICA,

Defendants.

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ORDER

18-cv-1038-bbc

Defendants John Glavin and Gabrielle Glavin have filed a notice of removal of a state foreclosure action filed in the Circuit Court for Juneau County, Wisconsin. As I explained in detail in Case No. 16-cv-349-bbc, dkt. #9, defendants have removed this case on three previous occasions without justification. On this fourth attempt, they have still not identified any legitimate basis for doing so. They contend that recent developments in their bankruptcy proceedings and the foreclosure action justify removal, but they do not explain why such alleged developments permit them to remove this state court action under 28 U.S.C. § 1441. Their failure to show a legitimate legal basis for removal means that the case must be remanded yet again. Therefore, I will grant plaintiff The Bank of New York Mellon's motion to remand.

Plaintiff has asked for an award of fees and costs under 28 U.S.C. § 1447, if remand is granted. Section 1447 provides that “[a]n order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal.” The request is justified in light of defendants’ failure to show that their latest attempt to remove the case was legally permissible under 28 U.S.C. § 1441.

ORDER

IT IS ORDERED that

1. Plaintiff Bank of New York Mellon’s motion to remand this case, dkt. #4, is GRANTED. The clerk of court is directed to remand the case to the Circuit Court for Juneau County.

2. Plaintiff’s motion for an award of actual expenses, including attorney fees, is GRANTED. Plaintiff may have until April 15, 2019, to file an itemized statement of the actual expenses it has incurred, including attorney fees, in opposing defendants’ removal of this case to federal court. Defendants may have until April 29, 2019, in which to file their opposition to the amount of fees sought. Plaintiff may have until May 6, 2019 to file a reply.

Entered this 2d day of April, 2019.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge